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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,587	02/28/2005	Akira Sano	JP920020141US1	3809
48916	7590	06/04/2010		
Greg Goshorn, P.C. 9600 Escarpment Suite 745-9 AUSTIN, TX 78749				
EXAMINER				
BENOIT, ESTHER				
ART UNIT		PAPER NUMBER		
2442				
MAIL DATE		DELIVERY MODE		
06/04/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,587

Applicant(s)

SANO, AKIRA

Examiner

ESTHER BENOIT

Art Unit

2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8 and 21-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI.08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendments

1. This Action is in response to an Amendment filed on March 8, 2010. Claims 8, 24-25, 27 have been amended. Claims 8 and 21-30 are pending in this application.

Response to Arguments

2. Applicant's arguments, filed 3/8/2010, have been fully considered but they are not persuasive. The applicants are arguing in substance the following:

Arguments under 35 U.S.C. 102 (b)

Arguments to Claim 8:

a) The prior art does not disclose determining quality of services corresponding to a plurality of provider sites, wherein the QOS information is provided by the provider sites and accumulated by the management sites.

Response to arguments of Claim 8:

As to point a: The argument has been considered but is not persuasive. On page 21, particularly paragraphs 3-6, Kreger discloses receiving QOS parameters regarding web services from web service providers and storing the QOS parameters in a repository of a UDDI node, wherein, the UDDI node represents a management site. Service requestors search for services based on how they communicate or qualities of service advertised by the providers (paragraph 1). This generates a service description

of the web service offered (paragraph 2). This service description is stored in a UDDI node to be later retrieved by the service requestor (paragraph 3).

Arguments to Claims 22, 25, and 29:

a) The prior art does not disclose number of times the software service has been used, frequency of use of the software service, execution time of the software services, and maintenance time for the software service.

Response to arguments of Claims 22, 25, and 29:

As to point a: The argument has been considered but is not persuasive. On page pg. 27, paragraph 3, "Quality of Service at..." and pg. 28, paragraph 1, "The second aspect of...", Kreger discloses execution time of the service which corresponds to the number of times the software service has been used, frequency of use of the software service, execution time of the software services and the time to initiate recovery or alternate flows corresponds to the maintenance time of the service.

As to any claims not specifically discussed, the applicants argued that it was patentable for one of the reasons discussed above. Please see response to above arguments for unspecified discussions.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8 and 21-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kreger (*Web Services Conceptual Architecture (WSCA 1.0)*, May 2001)

With respect to claim 8, Kreger discloses:

- transmitting a search request for a service from a service requester to a management site that searches for software services provided via a network (pg. 22, paragraph 1 "The various types..." to paragraph 5, "After a service...", *where a UDDI operator returns service descriptions to requestor and allows requestor to select a service*);
- obtaining by the search requester a service search result from the management site including information for determining quality of services (pg. 22, paragraph 1 "The various types..." to paragraph 5, "After a service...", *where a UDDI operator returns service descriptions to requestor; service descriptions based on binding support, historical performance, quality of service classification, proximity or load balancing*); corresponding to a plurality of provider sites, wherein the quality of service information is provided by the provider sites and accumulated by the management sites (pg. 21, paragraph 3-5, "Like publishing web....", *where QOS information is provided by the web service providers and obtained in a description repository of the UDDI nodes*);
- selecting by the service requester at least one software service based on the obtained search result (pg. 22, paragraph 1 "The various types..." to

paragraph 5, "After a service...", *requestor to selects a service to execute*);

- transmitting a request to execute the selected service to the service provider (pg. 22, paragraph 1 "The various types..." to paragraph 5, "After a service...", *requestor to selects a service to execute*);

With respect to claim 24, Kreger discloses:

- at least two service providers for providing a software service (pg. 22, paragraph 1 "The various types..." to paragraph 5, "After a service...", *requestor to selects a service to execute*);
- and a management service comprising a control program for:
 - receiving a service request corresponding to the software service from a service requestor (pg. 22, paragraph 1 "The various types..." to paragraph 5, "After a service...", *requestor to selects a service to execute*);
 - searching for the at least two service providers (pg. 22, paragraph 1 "The various types..." to paragraph 5, "After a service...", *requestor to selects a service to execute*);
 - collecting quality of service (QoS) information corresponding to each of the at least two service providers (pg. 22, paragraph 1 "The various types..." to paragraph 5, "After a service...", *where a UDDI operator returns service descriptions to requestor; service descriptions based on binding support, historical performance,*

quality of service classification, proximity or load balancing), wherein the QOS information is provided by the at least two service providers and accumulated by the management service (pg. 21, paragraph 3-5, "Like publishing web....", where QOS information is provided by the web service providers and obtained in a description repository of the UDDI nodes);

- transmitting the QoS information to the service requestor (pg. 22, paragraph 1 "The various types..." to paragraph 5, "After a service...", *where a UDDI operator returns service descriptions to requestor; service descriptions based on binding support, historical performance, quality of service classification, proximity or load balancing*)

With respect to claim 27, the limitations of claim 27 are similar to the limitations of claim 8. Therefore, claim 27 is rejected for the same reasons as claim 8 above. Please see rejection of claim 8.

With respect to claims 21 and 28, Kreger discloses wherein the service provider and the management site are different sites (pg. 22, paragraph 4, "If service requestors...", *UDDI operator and service providers*).

With respect to claims 22, 25 and 29, Kreger discloses wherein the information includes a number of times the software services have been used, a frequency of use corresponding to the software services; an execution time corresponding to the software services and a maintenance time corresponding to the software services (pg. 27,

paragraph 3, "Quality of Service at..." and pg. 28, paragraph 1, "The second aspect of..." *execution time, timeout values*).

With respect to claims 23, 26 and 30, Kreger discloses wherein the information includes a service history resulting from execution of the service (pg. 27, paragraph 3, "Quality of Service at...", *historical execution averages*).

Conclusion

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther Benoit whose telephone number is 571-270-3807. The examiner can normally be reached on Monday through Friday between 7:30 a.m. and 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Lee can be reached on 571-272-3967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

E.B
May 25, 2010

/Philip C Lee/
Acting Supervisory Patent Examiner, Art Unit 2442